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DOCKET NO. 2003.11.022.WS1
U.S. SERIAL NO. 10/667,052
PATENT**REMARKS**

Claims 1-20 were originally filed in the present application, and were eventually cancelled.

Claims 21 – 40 were previously added in the present application, remain pending, and were each rejected.

Reconsideration of the claims is respectfully requested.

CLAIMS REJECTIONS

Claims 21-27, 29-35 and 37-39 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,108,547 to *Yamashita* (hereinafter *Yamashita*). This rejection is respectfully traversed.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP § 2131, p. 2100-76 (8th ed., rev. 4, October 2005) (citing *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990)). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. *Id.* (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987)).

Yamashita discloses receiving an access request from a first mobile station and performing soft handoff. *Yamashita* does not disclose a channel allocator capable of receiving said access request notification and, in response thereto:

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-9-

DOCKET NO. 2003.11.022.WS1
U.S. SERIAL NO. 10/667,052
PATENT

- (1) terminating a first communication link between said first base transceiver station and a first selected one of said plurality of mobile stations, wherein said first selected mobile station maintains at least a second communication link with at least a second base transceiver station of said wireless network, and
- (2) allocating a first data traffic channel associated with said *terminated* first communication link to establish a communication link with said *accessing mobile station*, as required by Claims 21 and 29.

In other words, unlike in Yamashita, Claims 21 and 29 essentially claim a channel allocator that receives a notification of a first mobile station attempting to access a base station. In response to the access attempt notification, Claims 21 and 29 require that the channel allocator tears down an existing handoff channel associated with a second mobile station and re-allocates it to the *new first mobile station* that is attempting to access the base station. The channel allocator is able to tear down the *existing* handoff channel because the second mobile station in handoff state still has at least one other handoff channel that it can use.

In this way, when the claimed channel allocator receives the access request notification, even if there are no unused channels, it can terminate an existing handoff channel, and re-allocate that channel to the new mobile station. This is completely different than the system disclosed by Yamashita, in which, when a soft handoff request is received, “[i]f there are no unused channels available, a reject response is returned in response to the soft handoff request (step 1204), and the process is terminated” (col. 6, lines 36-39).

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-10-

DOCKET NO. 2003.11.022.WS1
U.S. SERIAL NO. 10/667,052
PATENT

The Examiner appears to agree with this analysis. In his response, the Examiner notes that Yamashita discloses that soft handoff mode and a channel are terminated "when the quality of the channel with the base transceiver station 12₁ has deteriorated far enough". This is contrary to the behavior required by the claims. As is clear, Yamashita's channel is terminated in response to quality deterioration, not in response to receiving an access request notification, as claimed. For convenient reference upon appeal, the Examiner's response in the final Office Action is reproduced below, boldface in original and entire paragraph *sic*:

Yamashita specifically discloses when the mobile station 18 detected that the quality of the channel between the mobile station 18 and base transceiver station 12-1 has deteriorated and that the quality with [*sic*] the base transceiver station 12-2 has improved, the mobile station 18 notifies the base transceiver 12-1 accordingly step 1002, upon which a transfer is made to a soft handoff mode (col. 4, lines 35-51), for establish a radio channel is required the control channel based on a channel allocator the notification complete communication in progress to access a base station (Fig. 2 with description, col. 4, lines 35-51, col. 5, lines 23-30). That wherein said first selected mobile station maintains at least a second communication link with at least a second base transceiver station of said wireless network and allocating said first data traffic channel associated with said terminated first communication link to establish a communication link with said accessing mobile station as indicated in Fig. 2 "the forward traffic information is also transferred from the base transceiver station 12-1 to the base transceiver station 12-2 and then transmitted from the base transceiver station 12-2 onto its radio channel. After that, when the quality of the channel with the base transceiver station 12-1 has deteriorated far enough, the soft handoff mode is terminated (step 1016, 1018), and a transfer is made to the normal communication ode in which the mobile station 18 is connected only to the base transceiver station 12-2 (step 1020) (See col. 4, lines 51-67, col. 5, lines 1-36).

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-11-

DOCKET NO. 2003.11.022.WS1
U.S. SERIAL NO. 10/667,052
PATENT

As can be seen, the Examiner does not even allege a teaching that corresponds to the actual claim language. While the Examiner is correct that Yamashita performs some basic processes such as receiving requests, terminating connections, etc., Yamashita does not perform these steps in accordance with the claims. Yamashita can terminate a soft-handoff connection when the signal quality deteriorates, but cannot accommodate a new access request when all channels are already allocated. The claimed system, however, can accommodate the new access request by terminating a soft-handoff connection in response to receiving the access request notification, and allocating the channel associated with the terminated connection to the new mobile station. This claimed feature is not taught or suggested at all by Yamashita.

Yamashita does not teach or suggest terminating a soft-handoff connection in response to receiving the access request notification, as required by claim 21, as required by claim 29, and as required by claim 37. The Examiner further responds, boldface in original and entire paragraph *sic*:

[T]he Yamashita reference discloses when the quality of the channel with the base transceiver station 12-1 has deteriorated far enough, the soft handoff mode is terminated (step 1016, 1018), and a transfer is made to the normal communication mode in which the mobile station 18 is connected only to the base transceiver station 12-2 (step 1020), the mobile station 18 notifies the base transceiver 1201 accordingly step 1002, upon which a transfer is made to a soft handoff mode (col. 4, lines 35-51, for establish a radio channel is required the control channel based on a channel allocator the notification to complete communication in progress to access a base station (See col. 4, lines 51-67, col. 5, lines 1-36).

Again, the Examiner does not even allege that Yamashita teaches an operation in accordance with the claims.

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-12-

DOCKET NO. 2003.11.022.WS1
U.S. SERIAL NO. 10/667,052
PATENT

Claims 21 and 29 are thus allowable. Moreover, Claims 22-27 and 30-35, which depend from Claims 21 and 29, respectively, are also allowable. Applicants therefore request favorable reconsideration and allowance of Claims 21-27 and 29-35.

Similarly, with respect to Claim 37, Yamashita fails to disclose a method for allocating the plurality of data traffic channels comprising: in response to the access request message detection, terminating a first communication link between the first base transceiver station and a first selected one of the plurality of mobile stations, wherein the first selected mobile station maintains at least a second communication link with at least a second base transceiver station; and allocating a first data traffic channel associated with the terminated first communication link to establish a communication link with the accessing mobile station, as required by Claim 37. Thus, unlike the Yamashita reference, Claim 37 essentially claims a method in which a channel allocator receives a notification that a first mobile station is attempting to access a base station, and in response, the channel allocator tears down an existing handoff channel associated with a *second mobile station* and re-allocates it to the *new first mobile station* attempting to access the base station. The channel allocator is able to tear down the existing handoff channel because the second mobile station in handoff state still has at least one other handoff channel that it can use. Claim 37 and its dependents, Claims 38-40, are thus allowable. Applicants therefore request favorable reconsideration and allowance of Claims 37-40.

The Examiner agrees with the analysis of Yamashita, as is clear from the Examiner's responses in the Office Action. As the teachings of Yamashita do not correspond to the requirements of the independent claims, it is unclear why the Examiner persists in the anticipation rejections,

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-13-

DOCKET NO. 2003.11.022.WS1
U.S. SERIAL NO. 10/667,052
PATENT

which requires that Yamashita identically teach the limitations of the claims. The rejection is unquestionably legally and factually deficient.

Claims 28, 36 and 40 were rejected as being obvious over Yamashita in view of U.S. Patent No. 5,287,544 to *Menich, et al.* ("Menich"). Applicants respectfully disagree, for the reasons discussed above with regard to Yamashita. Those features not taught or suggested by Yamashita are similarly not taught or suggested by Menich, alone or in combination with Yamashita.

Claim 28 ultimately depends from allowable Claim 21 and therefore is also allowable. Moreover, Yamashita, either alone or taken in combination with Menich, does not disclose or make obvious all the necessary elements as required by Claim 28 and, ultimately, Claim 21. Similarly, Claim 36 ultimately depends from allowable Claim 29 and Claim 40 ultimately depends from allowable Claim 37. Claims 36 and 40 are thus also allowable. Applicants therefore respectfully request favorable reconsideration and withdrawal of the rejection to Claim 40. Applicants thus respectfully request favorable reconsideration and withdrawal of the rejection to Claims 36 and 40.

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Accordingly, the Applicant respectfully requests the Examiner to withdraw all rejections of all claims, and promptly issue a notice of allowance.

SUMMARY

For the reasons given above, the Applicant respectfully requests reconsideration and allowance of the pending claims and that this application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at jmockler@munckbutrus.com.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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Date: 29 Dec 2006

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